

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: May 23, 2019

527593

In the Matter of TODD C.
MIRABELLA,
Petitioner,

v

JOHN COLVIN, as Superintendent
of Five Points Correctional
Facility, et al.,
Respondents.

MEMORANDUM AND JUDGMENT

Calendar Date: April 19, 2019

Before: Garry, P.J., Egan Jr., Lynch, Rumsey and Pritzker, JJ.

Todd C. Mirabella, Attica, petitioner pro se.

Letitia James, Attorney General, Albany (Robyn P. Ryan of counsel), for respondents.

Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Albany County) to review a determination of respondent Superintendent of Five Points Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5

mandatory surcharge has been refunded to petitioner's inmate account. Accordingly, given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Billups v Annucci, 170 AD3d 1300, 1301 [2019]; Matter of Williams v Chappius, 169 AD3d 1151, 1151 [2019]).

To the extent that petitioner requests that he be restored to the housing status he enjoyed prior to the disciplinary determination, a housing transfer and reappointment to his prior prison job, he is not entitled to such relief (see Matter of Meseck v Noworyta, 170 AD3d 1371, 1372 [2019]; Matter of Ortega v Lee, 156 AD3d 1084, 1084 [2017]). As the record reflects that petitioner has paid, or is obligated by court order to pay, a reduced filing fee of \$35, and has paid and documented other expenses in connection with this special proceeding in the amount of \$318.90, and has requested reimbursement thereof, we grant petitioner's request for that amount. Petitioner's remaining requests have been considered and rejected.

Garry, P.J., Egan Jr., Lynch, Rumsey and Pritzker, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$353.90.

ENTER:



Robert D. Mayberger
Clerk of the Court